

A distribution of cash to the members of a club formed for the purpose of providing hunting and fishing facilities for its members through the propagation and stocking of fish and game on the club property does not adversely affect its exemption from Federal income tax where such distribution represents an amount received from the State highway department in payment of land condemned for road building purposes.

Advice has been requested whether an organization formed for the purpose of providing hunting and fishing facilities for its members through the propagation and stocking of fish and game on the organization's property may continue to be exempt from Federal income tax under the circumstances set forth below.

The instant organization was incorporated as a nonprofit membership corporation without capital stock. Its purposes are the maintenance of a club for the promotion of fellowship, recreation, hunting, fishing and similar sports among its members and the conservation of game and fish. Its bylaws provide for only one class of membership, each and every member being entitled to the same rights and privileges. The organization has been granted exemption from Federal income tax as a social club described in section 501(c)(7) of the Internal Revenue Code of 1954.

The club owns approximately 600 acres of woodland traversed by a trout stream which is diverted into dams used for raising fish which in turn are transplanted to the stream. The club provides no activities other than outdoor recreation, hunting and fishing for its members, their families and bona fide guests, and participation in the conservation of game and fish.

The club's income is derived from annual dues of the members. Disbursements are made for real estate taxes, purchase of fish, maintenance of facilities and any other necessary operating expense. The club received a sum of money from the State highway department in payment for land condemned for road-building purposes which had been acquired by the club many years before. Pursuant to a motion adopted by the club this money was distributed equally among the members as a partial return of monies contributed to the club.

Section 501(c) of the Code describes certain organizations exempt from income tax under section 501(a) and provides, in part, as follows:

(7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides

as follows:

(a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreational clubs which are supported solely by membership fees, dues and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber or other products, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

The question for determination is whether the distribution to its members of the proceeds of sale of its property by the club under the circumstances in the instant case would adversely affect its exemption.

On the basis of the information presented, it is concluded that the club property was neither acquired nor disposed of for the purpose of deriving a profit therefrom. The distribution resulted from the incidental sale of a part of the club's properties and was not a distribution of earnings.

Accordingly, it is held that the distribution in the instant case did not adversely affect the organization's exemption from Federal income tax as an organization of the type described in section 501(c)(7) of the Code.